

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 910 – SB 785

March 25, 2011

SUMMARY OF AMENDMENT (005326): Deletes the original bill. Imposes a fine of \$2,500 for the Class A misdemeanor of cock fighting. Increases, from a Class A misdemeanor to a Class E felony, the penalty for a second or subsequent conviction of cock fighting. Increases, from a Class C misdemeanor to a Class A misdemeanor, the penalty for being a spectator at an animal fight, and imposes a \$2,500 fine for such violation. Deletes the existing statutory language that it is not an offense to own, possess or keep cocks, or aid or abet the ownership, possession or keeping of cocks, for the sole purpose of selling or transporting cocks to a location in which possession or keeping of cocks is legal.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – Not Significant
Increase State Expenditures - \$618,600/Incarceration*

Decrease Local Revenue – Not Significant
Decrease Local Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – Not Significant
Increase State Expenditures - \$56,200/Incarceration*

Decrease Local Revenue – Net Impact – Not Significant
Decrease Local Expenditures – Not Significant

Assumptions applied to amendment:

- According to the Administrative Office of the Courts, there has been an average of two misdemeanor convictions in each of the past five years. State court convictions are 10 percent of the total convictions. Total convictions, including general sessions courts, are estimated to be an average of 20 per year. Estimate assumes 10 percent (2) would receive a Class E felony rather than a misdemeanor for a second or subsequent violation.

- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two offenders.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2011 is \$60.62. The average post-conviction time served for a Class E felony is 1.27 years (463.87 days) at a cost of \$28,119.80 (\$60.62 x 463.87 days). The total additional operating cost for two offenders is \$56,239.60 (\$28,119.80 x 2).
- The increase in classification for some offenses from a Class A misdemeanor to a Class E felony could result in a slight decrease in the number of prosecutions in general sessions courts. Any decrease in revenue and expenditures to local government will not be significant.
- Article VI, Section 14 of the Tennessee Constitution gives the defendant a right to demand a jury in any case in which the potential fine exceeds \$50. Increasing the fine to \$2,500 will give the defendant a right to a jury trial. It is assumed that the right to jury trial will be waived in most cases and that there will be no significant increase in the number of jury trials.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc